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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-011]

Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review, and Rescission of Review in Part; 2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that producers and/or exporters subject to this administrative review received countervailable subsidies during the period of review (POR), January 1, 2017, through December 31, 2017.

Interested parties are invited to comment on these preliminary results.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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SUPPLEMENTARY INFORMATION

Background

Commerce published the initiation of this administrative review on April 16, 2018.¹ This review covers three producers/exporters: Risen Energy Co., Ltd.; Shenzhen Sungold Solar Co., Ltd.; and Sol-Lite Manufacturing Co., Ltd. Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 16298 (April 16, 2018).

the resumption of operations on January 29, 2019.² As a result, the revised deadline for these preliminary results was extended to March 10, 2019.³ On March 8, 2019, we extended the deadline for these preliminary results by 30 days to April 9, 2019.⁴

Scope of the Order

The merchandise covered by this order are modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of this order, subject merchandise includes modules, laminates and/or panels assembled in the China consisting of crystalline silicon photovoltaic cells produced in a customs territory other than China. For a complete description of the scope of this administrative review, *see* the Preliminary Decision Memorandum.⁵

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, Commerce preliminarily finds that there is a subsidy (*i.e.*, a financial contribution from an authority that gives rise to a benefit to the recipient) and that the subsidy is

² See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. As a result, all deadlines in this segment of the proceeding have been extended by 40 days.

³ The March 10, 2019 deadline was a Sunday. As a result, this deadline fell to the next business day. *See Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

⁴ See Memorandum, “Administrative Review of the Countervailing Duty Order on Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China, Second Extension of Deadline for Preliminary Results,” dated March 8, 2019. We note that this 30-day extension is from the March 10, 2019 deadline, which was a non-business day. Accordingly, the revised deadline for these preliminary results is April 9, 2019.

⁵ See Memorandum, “Decision Memorandum for the Preliminary Results in the Countervailing Duty Administrative Review of Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China; 2017,” dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

specific.⁶ Commerce notes that, in making these findings, we relied on total facts available and, because we find that the mandatory respondents did not act to the best of their ability to respond to Commerce's request for information, Commerce drew an adverse inference in selecting from the facts otherwise available.⁷ For further information, *see* "Use of Facts Otherwise Available and Application of Adverse Inferences," in the accompanying Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is provided at Appendix I to this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. This review was initiated on April 16, 2018. On July 16, 2018, Shenzhen Letsolar Technology Co., Ltd. (Letsolar) timely

⁶ *See* section 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ *See* sections 776(a) and (b) of the Act.

withdrew its request for review of its own entries.⁸ As no other party requested an administrative review of Letsolar, we are rescinding this review with respect to Letsolar, in accordance with 19 CFR 351.213(d)(1).

Further, we received timely filed certifications of no shipments from Shanghai JA Solar Technology Co., Ltd. and Hefei JA Solar Technology Co., Ltd. (collectively, JA Solar).⁹ To confirm JA Solar's statement, we issued a no-shipment inquiry to U.S. Customs and Border Protection (CBP) with respect to imports of subject merchandise from JA Solar during the POR.¹⁰ On April 4, 2019, CBP responded to our no-shipment inquiry regarding JA Solar stating that it found no shipments of solar products from China that were produced and/or exported by JA Solar during the POR.¹¹ As there is no evidence on the record that JA Solar made entries of subject merchandise into the United States during the POR, we are rescinding this review with respect to JA Solar, in accordance with 19 CFR 351.213(d)(3).

Preliminary Rate for Non-Selected Companies Under Review

The statute and Commerce's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 705(c)(5)(A)(ii) of the Act provides that, if the

⁸ See Letter from Letsolar, "Letsolar Withdrawal of Review Request for Administrative Review of the Countervailing Duty Order on Crystalline Silicon Photovoltaic Products from the People's Republic of China," dated July 16, 2018.

⁹ See Letter from JA Solar, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: No Shipment Certification of Shanghai JA Solar Technology Co., Ltd. and Hefei JA Solar Technology Co., Ltd.," dated May 16, 2018.

¹⁰ See CBP Message No. 9093304, dated April 3, 2019.

¹¹ See Memorandum, "No shipment inquiry with respect to the companies below during the period 01/01/2017 through 12/31/2017," dated April 4, 2019.

countervailable subsidy rates established for all individually-examined exporters/producers are *de minimis* or based entirely on adverse facts available under section 776 of the Act, Commerce may use any reasonable method to establish a subsidy rate for exporters/producers that were not individually-examined, including averaging the weighted-average countervailable subsidy rates determined for the individually-examined exporters and producers.

In this review, the countervailable subsidy rates calculated for the three mandatory respondents are based entirely on facts available pursuant to section 776 of the Act.

Accordingly, we are using “any reasonable method” to establish the subsidy rate for the non-selected companies under review. We find that it is reasonable to rely on the rates established for the mandatory respondents as the rate for the non-selected companies under review, particularly because there is no other information on the record that can be used to determine the rate for the non-selected companies. This method is consistent with our past practice.¹² A list of these non-selected companies can be found at Appendix II of this notice.

Preliminary Results of Review

We preliminarily determine the net countervailable subsidy rates for the period January 1, 2017, through December 31, 2017, are as follows:

¹² See, e.g., *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 81 FR 20619 (April 8, 2016), unchanged in *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Final Affirmative Countervailing Duty Determination*, 81 FR 75045 (October 28, 2016) (assigning the sole mandatory respondent’s rate, which was based on adverse facts available, as the all-others rate), and *Circular Welded Carbon-Quality Steel Pipe from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 77 FR 19192 (March 30, 2012), unchanged in *Circular Welded Carbon-Quality Steel Pipe from India: Final Affirmative Countervailing Duty Determination*, 77 FR 64468 (October 22, 2012) (assigning the average of the mandatory respondents’ rates, which were based solely on adverse facts available, as the all-others rate).

Company	Subsidy Rate (percent)
Risen Energy Co., Ltd.	94.83
Shenzhen Sungold Solar Co., Ltd.	94.83
Sol-Lite Manufacturing Co., Ltd.	94.83
Non-Selected Companies Under Review ¹³	94.83

Assessment and Cash Deposit Requirement

In accordance with 19 CFR 351.221(b)(4)(i), we assigned a subsidy rate for each producer/exporter subject to this administrative review. Upon issuance of the final results, Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after the publication of the final results of this review. For companies for which this review is rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2017, through December 31, 2017, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Pursuant to section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties, in the amounts shown above for each of the respective companies shown above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the final results of review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most-recent company-specific or all-others rate applicable to the company, as

¹³ See Appendix II.

appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Because Commerce had reached its conclusions on the basis of adverse facts available, the calculations performed in connection with these preliminary results are based on public information and are described in the Preliminary Decision Memorandum. Interested parties may submit case and rebuttal briefs, as well as request a hearing.¹⁴ For a schedule of the deadlines for filing case briefs, rebuttal briefs, and for requesting a hearing, *see* the Preliminary Decision Memorandum.

Notification to Interested Parties

Commerce is issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: April 8, 2019.

¹⁴ *See* 19 CFR 351.309(c)-(d), and 19 CFR 351.310(c); *see also* 19 CFR 351.303 (for general filing requirements).

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

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Appendix II

Non-Selected Companies Under Review

1. Changzhou Trina Solar Energy Co., Ltd.
 2. Chint Solar (Zhejiang) Co., Ltd.
 3. Hefei JA Solar Technology Co., Ltd.
 4. Ri Shen Products (SZ) Ltd.
 5. Shanghai JA Solar Technology Co., Ltd.
 6. Sunny Apex Development Limited
 7. Trina Solar (Changzhou) Science & Technology Co., Ltd.
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